

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007 IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 1st day of May, two thousand eight.

PRESENT:

HON. DENNIS JACOBS,
Chief Judge,
HON. PIERRE N. LEVAL,
HON. ROBERT D. SACK,
Circuit Judges.

YUE CHI DONG,
Petitioner,

v.

IMMIGRATION NATURALIZATION SERVICES,
Respondent.

07-0450-ag
NAC

1 **FOR PETITIONER:** *Pro se, Bayside, New York.*

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3 **FOR RESPONDENT:** **Peter D. Keisler, Assistant Attorney**
4 **General, Linda S. Wernery, Assistant**
5 **Director, Scott Rempell, Trial**
6 **Attorney, United States Department**
7 **of Justice, Civil Division, Office**
8 **of Immigration Litigation,**
9 **Washington, District of Columbia.**

10
11 UPON DUE CONSIDERATION of this petition for review of a
12 decision of the Board of Immigration Appeals ("BIA"), it is
13 hereby ORDERED, ADJUDGED, AND DECREED, that the petition for
14 review is DENIED.

15 Petitioner Yue Chi Dong, a native and citizen of the
16 People's Republic of China, seeks review of the January 10,
17 2007 order of the BIA affirming the September 8, 2005
18 decision of Immigration Judge ("IJ") Vivienne Gordon-
19 Uruakpa, denying her application for asylum, withholding of
20 removal, and relief under the Convention Against Torture
21 ("CAT"). *In re Yue Chi Dong*, No. A95 687 528 (B.I.A. Jan.
22 10, 2007), *aff'g* No. A95 687 528 (Immig. Ct. N.Y. City Sept.
23 8, 2005). We assume the parties' familiarity with the
24 underlying facts and procedural history of the case.

25 It is well established that the submissions of *pro se*
26 litigants must be construed liberally and interpreted to
27 raise the strongest arguments that they suggest. See
28 *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d

1 Cir. 2006). When the BIA does not expressly “adopt” the
2 IJ’s decision, but its brief opinion closely tracks the IJ’s
3 reasoning, we may consider both the IJ’s and the BIA’s
4 opinions for the sake of completeness if doing so does not
5 affect our ultimate conclusion. See *Wangchuck v. DHS*, 448
6 F.3d 524, 528 (2d Cir. 2006). We review the agency’s
7 factual findings, including adverse credibility
8 determinations, under the substantial evidence standard.
9 See 8 U.S.C. § 1252(b)(4)(B); *Dong Gao v. BIA*, 482 F.3d 122,
10 126 (2d Cir. 2007).

11 As a preliminary matter, because Dong failed to
12 challenge the IJ’s denial of her CAT claim before either the
13 BIA or this Court, we deem that claim abandoned. See *Gui*
14 *Yin Liu v. INS*, 508 F.3d 716, 723 n.6 (2d Cir. 2007).

15 As to Dong’s asylum and withholding of removal claims,
16 substantial evidence supports the agency’s adverse
17 credibility determination. The multiple specific examples
18 of discrepancies between Dong’s testimony and the record –
19 e.g., her failure to mention before the day of her merits
20 hearing that she had been forced to have an abortion without
21 anesthesia in May 1997, as well as her inconsistent
22 testimony about when she began attending her gynecological
23 examinations – provided sufficient bases on which the agency

1 could conclude that she was not credible. See *Zhou Yun*
2 *Zhang v. INS*, 386 F.3d 66, 74 (2d Cir. 2004), overruled in
3 part on other grounds by *Shi Liang Lin v. U.S. Dep't of*
4 *Justice*, 494 F.3d 296, 305 (2d Cir. 2007) (en banc); see
5 also *Xu Duan Dong v. Ashcroft*, 406 F.3d 110, 111-12 (2d Cir.
6 2005) (finding that the agency's adverse credibility
7 determination was supported by the applicant's failure to
8 mention his alleged sterilization without an anesthetic in
9 any of his three asylum applications). Although Dong
10 offered explanations for the discrepancies identified by the
11 agency, no reasonable fact-finder would have been compelled
12 to accept them. See *Majidi v. Gonzales*, 430 F.3d 77, 81 (2d
13 Cir. 2005). Moreover, it was proper for the agency to rely
14 on the absence of corroboration, such as a written statement
15 from her parents-in-law. See *Xiao Ji Chen v. U.S. Dep't of*
16 *Justice*, 471 F.3d 315, 341 (2d Cir. 2006). Indeed, the
17 absence of such evidence rendered Dong unable to
18 rehabilitate her testimony, which had already been called
19 into question. See *id.* Based on these findings, no error
20 argued by Dong would induce us to disturb the agency's
21 adverse credibility determination, as it can be confidently
22 predicted that the agency would reach the same conclusion on
23 remand. See *id.* at 338.

1 Finally, as the only evidence of a threat to Dong's
2 life or freedom depended upon her credibility, the adverse
3 credibility determination as to her asylum claim necessarily
4 precluded success on her claim for withholding of removal.
5 *See Paul v. Gonzales*, 444 F.3d 148, 156-57 (2d Cir. 2006).

6 For the foregoing reasons, the petition for review is
7 DENIED. As we have completed our review, any stay of
8 removal that the Court previously granted in this petition
9 is VACATED, and any pending motion for a stay of removal in
10 this petition is DISMISSED as moot. Any pending request for
11 oral argument in this petition is DENIED in accordance with
12 Federal Rule of Appellate Procedure 34(a)(2), and Second
13 Circuit Local Rule 34(b).

14 FOR THE COURT:
15 Catherine O'Hagan Wolfe, Clerk

16 By: _____
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